

DOES NOT WARRANT EXAMINATION

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3/7/87

Summary

EIN: [REDACTED]

31 DEC 1986

Dear Applicant:

This refers to your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

You were incorporated under the laws of the State of [REDACTED] on [REDACTED]. Your articles of incorporation provide that your purpose is to establish an interdenominational religious brotherhood for religious, charitable, and educational purposes within the meaning of section 501(c)(3) of the Code.

Your application and subsequent submissions state that you assist the mentally and/or physically handicapped by assisting in training and education programs for these persons, and providing transportation to training and/or therapy sites and to religious services as needed. You serve those who "fall through the cracks" of the social service networks, by acting as advocates on their behalf. You provide referrals to agencies that can provide help and often act as advocates to ensure that help is provided in a timely manner.

You also state that you provide services to the community in general through participation in such organizations as [REDACTED]

[REDACTED]. In addition you provide direct service to those sectors of the community not served by other organizations. The primary thrust of this program now is to provide spiritual, health, and life style counseling and education to the homosexual community.

Your bylaws provide that all professed members of your order who hold secular employment shall contribute their income to the order. At present, [REDACTED], your Provincial and a member of your Board of Trustees, donates his entire salary to your organization. Substantially all of your support has been derived from this source. Your future support will also be derived in substantial part from [REDACTED].

A review of your expenses for the first six months of [REDACTED] shows that, of total expenses of \$[REDACTED], \$[REDACTED] was attributable to rent and utilities for your chapter house. You provide housing for your members in this facility.

[REDACTED]

You also used organizational funds to provide food, clothing and medical expenses for your members at a cost of \$[REDACTED].

According to your proposed budgets for [REDACTED] and [REDACTED], you will continue to derive substantially all of your support from the earnings of a member and provide shelter, food, clothing and medical attention for your members. For example, of your estimated [REDACTED] expenses of \$[REDACTED], \$[REDACTED] will go toward providing shelter, food, and medical care for your members. The majority of your [REDACTED] budget is likewise intended for these personal expenditures.

Section 501(c)(3) of the Code provides, in part, for the recognition of exemption from federal income tax of organizations organized and operated exclusively for charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(2) of the Income Tax Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for an exempt purpose unless it serves a public rather than a private interest.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the U.S. Supreme Court concluded that the presence of a single nonexempt purpose, if substantial in nature, will disqualify a potential exempt organization, notwithstanding the number or importance of truly exempt purposes.

In The Founding Church of Scientology v. United States, 412 F. 2d 1197 (Ct. Cl. 1969) cert. den., 397 U.S. 1009 (1970), the court, without considering the organization's beliefs, held that it did not qualify for exemption under section 501(c)(3) of the Code, because its net earnings inured to the organization's founder and family.

A religious community whose members donated all their possessions and, if employed outside the organization, their salaries to the organization, and which provided its members benefits in the form of food, clothing, shelter, medical care, recreational facilities, and educational services, was held not exempt as a religious organization. In this case, Beth - El Ministries, Inc. v. United States, 79-2 USTC, 9412 (D.D.C. 1979), the court concluded that private benefits inured to the benefit of the organization's members because the organization paid their living expenses.

Section 501(4) of the Code provides exemption for a religious or apostolic association if:

[REDACTED]

(a) it has a common or community treasury, even if it engages in business for the common benefit of its members; and

(b) the members include in their gross income their PFC share shares, whether distributed or not, of the taxable income of the association or corporation for the year.

Rev. Rul. 80-332, 1980-2 C.B. 34 states that if an organization is substantially dependent on wages earned by some of its members from outside employment rather than an internally operated business, it does not qualify for exemption under section 501(d) of the Code.

It is clear from the information presented above that you have expended in the past and intend to expend in the future a substantial part of your budget for the private benefit of your members by providing for their shelter, food, clothing, and medical expenses. This results in your net earnings inuring to the benefit of private individuals, contrary to the provisions of section 501(c)(3) of the Code and section 1.501(c)(3)-(d)(1)(ii) of the regulations, cited above. As indicated in the last two cases summarized above, the courts have upheld the Service's unfavorable rulings issued to religious organizations operated in this manner.

Based on the discussion above, we conclude that you are not operated exclusively for charitable purposes. Accordingly, you do not qualify for recognition of exemption from federal income tax under section 501(c)(3) of the Code. Although you have not sought exempt status under section 501(d), we note that you would not qualify under this section because substantially all of your income is derived from a member's earnings from outside employment.

You are required to file federal income tax returns. Contributions to you are not deductible under section 170 of the Code.

You have the right to protest our ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District

[REDACTED]  
[REDACTED]  
of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, if you have any questions about your federal income tax contact your key District Director.

Sincerely yours,

[REDACTED]  
[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch

cc: DD, Baltimore  
Attn: EO Group  
[REDACTED]